

October 24, 2001

To: Chairman Wood  
Commissioner Massey  
Commissioner Breathitt

From: Commissioner Brownell

Re: Proposal for Research and Action for FERC/State Partnerships

Discussions during RTO Week highlighted the need for continued and strengthened federal/state relations, especially as we move forward with RTO development and implementation. We heard, on the opening day of RTO Week, several state commissioners say that voluntary formation of RTOs has been too slow and that some standardization of RTO functions makes sense. Other panelists echoed this sentiment, telling us that FERC needs to give more guidance on specific functions of an RTO. Still others ventured into the issue of joint state/federal siting authority. Some, of course, object to our approach to RTOs. All called for better communication and a greater opportunity for participation.

The time is ripe for the Commission to leverage the momentum of RTO Week to achieve a more productive working relationship with the states. To this end, I am asking your support for tasking FERC Staff with exploring the means by which this Commission can have a more structured process for working with the states to achieve our common goal of competitive, robust electric transmission and power markets. With your support, I will raise this idea and make the request of FERC Staff at the October 24, 2001 Commission meeting.

At this point, outreach responsibility is dispersed throughout the agency. While Staff is committed to outreach and effective communication, efforts to date have been fragmented and labor intensive for staff and states. In addition, to the extent that states are unaware of our efforts, our progress toward strengthening relationships is made in isolation. Moreover, internal communication and dissemination of information is not always consistent; Staff is not always aware of pending issues or developments relevant to case and policy work. Further, states are confused about where to go within the agency.

A more structured process could take one of many forms and each has its pros and cons. However, I believe that a regional panel offers the better solution. It can provide the necessary flexibility that we will likely need moving forward to RTO implementation. That is, it can lend itself to different processes, depending on the issues to be resolved or the status of pending proceedings. We will need to ensure compliance with ex parte rules.

A regional panel could be comprised of specifically assigned FERC Staff and state interests. It would have defined goals and duties, as outlined below. It is imperative that FERC and the states share these common goals and agree to the duties and time lines as we move forward with continuation of competitive markets.

#### Goals:

The regional panel will strive to:

- strengthen relationships with states;
- enjoy the benefits of state input;
- reduce transaction costs for states engaged in FERC issues;
- increase efficiency of our staff; and
- enhance flexibility of problem solving.

#### Duties:

The regional panel will provide generic policy advice on:

- setting up RTOs (immediately);
- transmission ratemaking and revenue requirement concerns;
- demand-side response mechanisms for application in the competitive electricity markets;
- market monitoring and mitigation efforts for implementation in RTOs;
- distributed generation issues, applications, and interconnection standards.

FERC Staff should determine the feasibility of regional panels vis-a-vis other alternatives as a means of reaching the above goals. FERC Staff should also address where in the FERC organization this effort should be housed (*e.g.*, OMTR, OEA, OGC) and the type and number of employees that should be charged with this new function. Managing boards and organizing outreach is a full time job. It requires not only substantive knowledge of technical and policy issues but also sensitivity to varying interests. FERC Staff, in making a recommendation on staffing levels and placement within the FERC organization for this new process, may want to consider whether to reassign existing FERC Staff to this effort (such staff may then have to be non-decisional) or create a new division or office and separately staff it, for example. In making recommendations on the best form(s) and organizational location for a

FERC/state partnership, FERC Staff should consider the following minimum responsibilities in its role for the new effort:

- be the single stop shop for state commissions;
- follow docketed workload to be informed of state/federal issues;
- be plugged into FERC staff activity as a guide and facilitator;
- coordinate whatever regional board structures or other mechanisms we pursue; and
- provide routine advisories to Commissioners and staff regarding states.